

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

RONALD STAFFORD

§

VS.

§ CIVIL ACTION NO. 1:03cv302

UNITED STATES PENITENTIARY,
BEAUMONT, TEXAS

§

**MEMORANDUM ORDER PARTIALLY ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Ronald Stafford, a federal prisoner, proceeding *pro se* and *in forma pauperis*, brings this action under the Federal Tort Claims Act and *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971) against the United States of America, Warden R. D. Miles, Correctional Officer Vontrella Tate, and Lieutenant Kenneth Russo.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has filed a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the action pursuant to 28 U.S.C. § 1915(e) for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties. However, plaintiff has moved to dismiss the petition. After due consideration, the court is of the opinion plaintiff's motion should be granted and the case should be dismissed pursuant to Federal Rule of Civil Procedure 41(a).

ORDER

Accordingly, plaintiff's motion to dismiss the case is **GRANTED**. The report of the magistrate judge is partially **ADOPTED** to the extent it recommends dismissing the action. A final judgment will be entered in accordance with this Memorandum Order.

So **ORDERED** and **SIGNED** this **16** day of **August, 2005**.



Ron Clark, United States District Judge